

Statutory References



The primary statutory references defining duties and responsibilities of the department are found at the following locations:

Title 75 Environmental Protection
Title 82 Minerals, Oil, & Gas

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The Legislative Fiscal Division

Presents:

Profile of...
Dept. of Environmental Quality

State of Montana



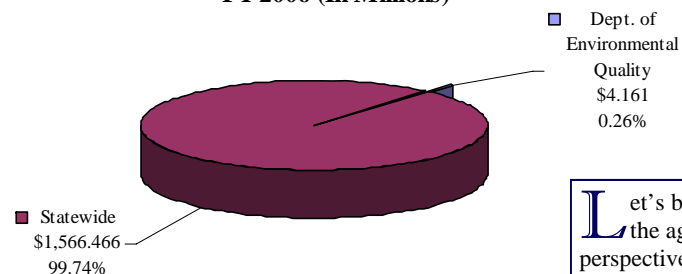
Agency Profile

This agency profile will discuss...

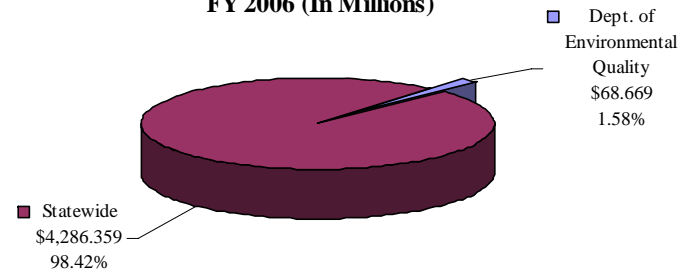
- structure and funding
- primary functions and
- historical expenditures

The profile also includes information on how decisionmakers can effect change in the agency's expenditures along with a listing of pertinent statistics. For an explanation of terms used in this profile, consult the "Background on the Agency Profiles" at: <http://leg.mt.gov/css/fiscal/default.asp>

Sept. 2006

General Fund Statewide Comparison
FY 2006 (In Millions)

Let's begin by putting the agency's size in perspective by comparing it to state government as a whole.

Total Funds Statewide Comparison
FY 2006 (In Millions)

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Section C
Natural Resources & Commerce



What the Agency Does

The department is responsible for regulating air quality, water quality, underground storage tanks, automobile wrecking facilities, hazardous waste facilities, solid waste management systems, and mining operations and for the siting and needs analyses of large-scale energy facilities. In addition, the department is the lead agency for reclamation and cleanup activities related to the federal and state superfund programs, leaking underground storage tanks, and regulation and permitting of mining conducted on private, state, and federal lands.

The department works in partnership with the federal Environmental Protection Agency (EPA). Congress gave the EPA the initial responsibility for development and implementation of environmental protection, but many federal statutes contain preference for delegation of the program to the states when the state can demonstrate capacity to carry it out. This arrangement establishes state-federal environmental goals and priorities with the funding and flexibility to achieve desired results. These joint activities become the basis of future agreements and long-term strategic planning. Given this unique relationship, the federal government dictates many of the department's activities.

Total FTE: 362.78



How Services Are Provided

The department consists of five divisions with the following functions:

- The **Central Management Division** houses the director's office, financial services, information technology, centralized legal services, and personnel. This division provides the management, planning, and accountability functions to ensure that the department carries out its mission and statutory responsibilities. Primarily proprietary dollars fund the 10 FTE used to complete these activities.
- The **Planning Prevention and Assistance Division** develops and implements integrated air, energy, waste management, and water plans to protect Montana's environmental resources. The division monitors ambient environmental conditions and maintains records and data describing the quality of Montana's environment.

Enforcement

When permitting, licensing, and monitoring efforts fail, the department has the ability to enforce laws through administrative orders, to levy fines, and to revoke licensees and the like. To modify expenditures and activities, consider:



- Defining the scope of enforcement activities
- Establishing enforcement priorities
- Evaluating the applicability of penalties and fines
- Directing the fines and penalties to specific activities or projects
- Creating timelines to ensure that all complaints are addressed in a timely manner



Statewide Factors With Impact

In addition to the factors above, a number of factors common to many agencies will also impact changes in expenditures over time.

- State FTE - state employees perform many of the functions of the department with personal services accounting for 38 percent of expenditures. Therefore, any decisions that change FTE will have a direct and immediate impact on the ability of the department to deliver services/functions, as required by law.
 - Professional/technical/educational requirements of FTE job descriptions;
 - Number of employees eligible for retirement
 - Number of employees at or below 80 percent of market pay

Permitting

The department provides processes to release permits for such activities as building waste management facilities, emitting pollutants into air and water, and strip mining activities. Change can be achieved through:

- Determining the types of environmental activities that require permitting to protect the environment
- Establishing general guidelines for the permitting process
- Defining the length of time for a valid permit
- Evaluating fees for permitting activities
- Directing fees to support specific activities or programs

Monitoring

As a regulatory agency, the department is constantly monitoring activities that could affect the environment as well as air and water quality. To affect this activity, consider the following:

- Determine how much air and water quality monitoring is sufficient
- Define compliance monitoring intervals for reclamation and cleanup activities
- Establish priorities for monitoring activities
- Define the scope of monitoring activities



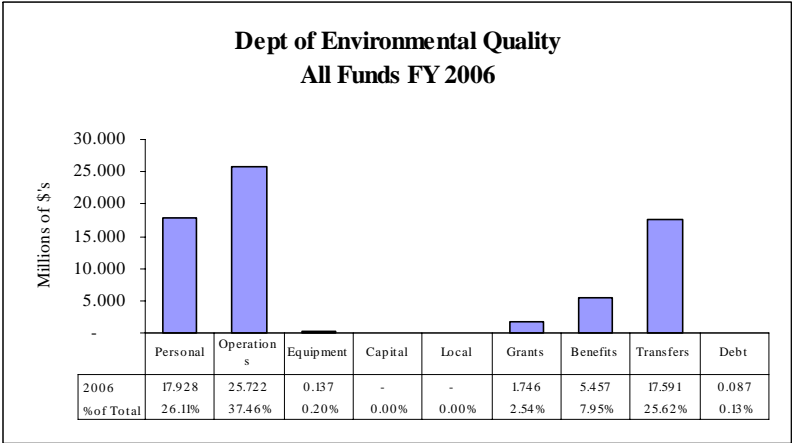
Division programs provide financial and technical assistance to overcome market and institutional barriers hindering the implementation of cleaner business, energy utilization, and public works practices and the installation of better equipment. Funded primarily with federal dollars, this division utilizes 89.58 FTE to complete its duties.

- The **Enforcement Division** facilitates enforcement of the laws and regulations administered by the department when efforts of the other divisions have not been successful. This involves investigating spills and citizen complaints that allege impacts to human health or the environment, processing enforcement cases, and monitoring compliance. 14 FTE manage the enforcement process, funded primarily with general fund and federal EPA dollars.
- The **Remediation Division** is responsible for overseeing investigation and cleanup activities at state and federal Superfund sites; reclaiming abandoned mine lands; implementing corrective actions at sites with leaking underground storage tanks (LUSTs); and overseeing ground water remediation at sites where agricultural and industrial chemical spills have caused ground water contamination. 61.75 FTE handle remediation oversight activities, funded with a split of state special and federal funds. Actual on-the-ground remediation activities are contracted out through competitive bidding.
- The **Permitting and Compliance Division** reviews and assesses all environmental permit and license applications to determine the correct control measures and requirements needed to meet the laws and rules that have been enacted to protect the quality of the state's air, water, and land. This includes preparing appropriate environmental review documents, conducting all facility inspections and reviews to determine compliance with permit conditions and the laws and regulations.



The division issues permits for hard-rock mining when appropriate, inspects permitted mining operations, and ensures that disturbed areas are properly reclaimed after mining ends. Primarily funded with state special revenue from forfeited hard-rock mining bonds, air quality fees, junk vehicle fees and RIT accounts, 181.45 FTE complete the activities of this division. Direct reclamation activities are contracted through the competitive bidding process.

- The **Petroleum Tank Release Compensation Board** is attached to the department for administrative purposes. The purpose of the board is to administer the petroleum tank release cleanup fund. This includes reimbursement to petroleum storage tank owners and operators for corrective action costs and compensation paid to third parties for bodily injury and property damage resulting from a release of petroleum from a petroleum storage tank. The board has a staff of 6.00 FTE.



Agency Functions, State Purposes, & Customers Served

The agency is structured to perform certain functions in support of general state government purposes.

The following lists the major functions, purpose of provision of the functions, and primary customers served.

State Purpose	Major Agency Functions	Customers
<i>Protection, Enhancement, and Remediation of Natural Resources</i>	Services conducted to protect, or eliminate or alleviate past or current harmful impact to, the state's natural resources and the beauty and productive capacity of those resources.	Landowners, recreation enthusiasts, environmental groups, tourists, local governments, and reclamation corporations.



How the Legislature Can Effect Change

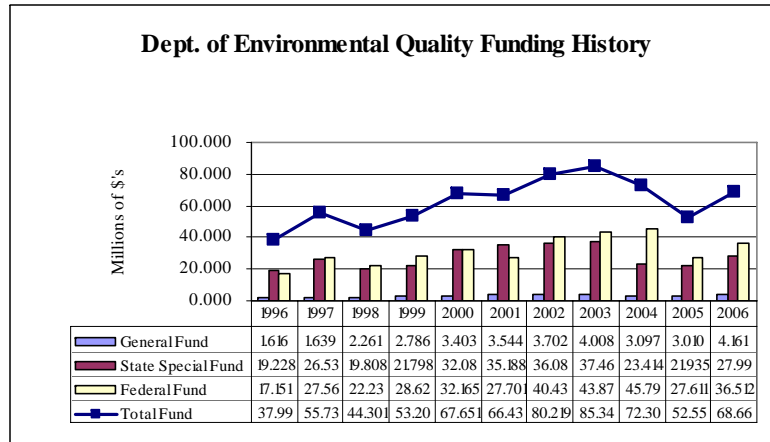
In order to change expenditure levels and/or agency activity, the legislature must address one or more of the following basic elements that drive costs:

Licensing

The department provides processes to license a number of environmentally related occupations. To influence expenditure levels or agency activities in this area:

- Determine occupations that need to be licensed for the protection of the environment
- Establish guidelines for licensing a particular occupation or category of occupations
- Set fees for licensing activities
- Direct licensing fees to support a specific activity or program
- Determine re-application intervals for licenses

Expenditure History



Reasons for Expenditure Growth/Change

- In order to begin to address pay equity issues, the department increased salaries to those employees at less than 80 percent of market to that level. This was done within current appropriation authority in FY 2006, but may increase costs in the future.
- General fund reliance has increased because of an increase in appropriation authority in the 2005 legislative session.
- Federal revenue has slid during the last two fiscal years because of decreases in EPA funding and competitive grant awards.
- State special revenue fluctuates based on the number of permits completed, fines levied, and reclamation bonds forfeited.



How Services Are Funded



- General Fund – The department utilizes general fund for personal services, operation of the board of environmental review, and general operation costs. In the 2005 session, the legislature increased the amount of general fund available to the department by \$1.1 million. This adjustment restored reductions that were taken during the 2003 session.
- State Special Revenue– Forty percent of the department's funding comes from a number of state special revenue accounts. Fees established for the purpose of licensing, permitting, and reviewing activities under the prevue of the department are the major source of this revenue. Forfeited hard-rock mining bonds, proceeds from the sale of reclamation bonds, and appropriated interest from the resource indemnity trust (RIT, see LFD pocket guide for more information) are other significant sources of state special revenue. This revenue is used to support the activities from which it was derived. For example, forfeited hard-rock mining bonds are used to reclaim and monitor affected lands, and water quality fees are used to maintain water monitoring programs and the permitting process.

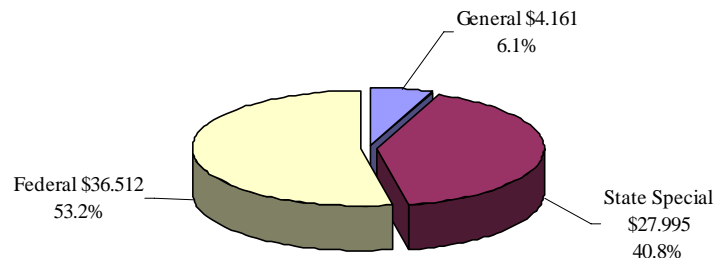
- Federal Revenue – The EPA is the primary source of federal funds for the department. Predominant programs are the Partnership Grant and Superfund Projects. The Partnership Grant provides consolidated funding for optimal flexibility, allowing states to establish priorities in managing environmental projects. Superfund dollars are utilized to support sites on the National Priority List that have been identified as sites of known releases or threatened releases of hazardous substances, pollutants, or contaminants. Montana has 15 such sites. Funding includes dollars for remediation as well as administrative purposes. Other federal programs include Wetland Protection, nonpoint source monitoring, and funding for Total Maximum Daily Loads (TMDL, determining the reduction of pollutants needed to meet water quality standards). State participation in these funds range from zero financial participation to 40 percent and is based on the type of funds and the project being proposed. Federal revenue has not kept pace with increased costs and expanded requirements.



- **Proprietary Funds** – The department negotiates an annual indirect cost rate with the EPA. This fixed rate, 25 percent, is applied against personal services, temporary services, and work-study projects within each division of the department, other than the Central Management Division. The department is proposing to expand this indirect rate to include operating costs. This funding supports much of the activity in the Central Management Division. These funds are net appropriated and do not appear in any of the tables.



**Dept. of Environmental Quality Funding History
FY 2006**



Related Data & Statistics

<i>Element</i>	<i>2004</i>	<i>2006</i>	<i>Significance of Data</i>
Number of reclamation bonds held	458	1,275	Number of mining sites with reclamation bonds, potential workload
Value of reclamation bonds held (in millions)	\$550.9	\$594.8	Value of bonded reclamation work in Montana
Acres of mining land reclaimed (does not include hard-rock mines)	1,273	22,226	Workload
Number of federally designated Superfund sites	14	15	Workload, federal revenue
Number of water quality permits released	730	888	Workload, revenue
Number of air quality permits released	256	203	Workload, revenue
Number of complaints received	908	1,139	Workload
Number of Complaints resulting in enforcement action	9	7	Workload, Revenue from Fines, severity of complaints
Total number of new and ongoing enforcement actions	334	422	Workload, revenue from fines, severity of complaints